IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16717 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANHARBHAI DEVABHAI PARMAR

Versus

KANTIBHAI RANCHHODBHAI PARMAR

Appearance:

1. Special Civil Application No. 16717 of 2003

MR DILIP B RANA for Petitioner No. 1-2

NOTICE SERVED for Respondent No. 1

MRS.FALGUNI PATEL, AGP for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 14/09/2004

ORAL JUDGEMENT

In this petition under Article 227 of the Constitution of India, the petitioner has challenged the

legality and validity of the order passed by the Gujarat State Cooperative Tribunal dated 6.10.2003 passed in Misc. Application No.27 of 2002 in rejecting the application of the petitioners to grant them permission to challenge the judgement and award passed by the Board of Nominees, Godhra in Lavad Suit No.1205 of 2002.

2. Though served, the respondent no.1 has chosen not to remain present and however, the written statement is sent through post which is considered by this Court.

3. Shri Dilip Rana, Learned Advocate appearing on behalf of the petitioners had submitted that in view of the fact that the petitioners are directly affected persons by the judgment and award passed by the Board of Nominees, Godhra in Lavad Suit No.1205 of 2002, the Tribunal ought to have allowed the petitioners to challenge the judgment and award passed by the Board of Nominees in Lavad Suit No.1205 of 2002. He has submitted that the Tribunal has rejected the application of the petitioner only on the ground that the Custodian is already appointed and therefore, the Custodian would take care. It seems that though the custodian is appointed, till date no efforts are made by the Custodian to hold election nor any action is taken by the Custodian to challenge the judgement and award passed by the Board of Nominees, Godhra passed in Lavad Suit No.1205 of 2002. Under the circumstances, the petitioners who are the members of the society ought to have been permitted to challenge the judgment and award passed by the Learned Board of Nominees, Godhra in Lavad Suit No.1205 of 2002. Considering the aforesaid facts and circumstances of the case, the order passed by the Gujarat State Cooperative Tribunal dated 6.10.2003 in Misc. Application No.27 of 2002 is hereby quashed and set aside. The prayer submitted by the petitioner allowing them to challenge the judgment and award passed by the Learned Board of Nominees, Godhra in Lavad Suit No.1205 of 2002 is hereby allowed. The Tribunal is accordingly directed to decide and dispose of the same. Rule is made absolute with no order as to costs.

(M.R.Shah, J)
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